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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/677,934	10/02/2003	Robert H. Feldmeier	706.002PA	9726
25891	7590	03/10/2005	EXAMINER	
BERNHARD P. MOLLDREM, JR. 224 HARRISON STREET SUITE 200 SYRACUSE, NY 13202			LAMBRECHT, CHRISTOPHER M	
			ART UNIT	PAPER NUMBER
			2611	

DATE MAILED: 03/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/677,934	<b>Applicant(s)</b> FELDMEIER, ROBERT H.	
	<b>Examiner</b> Christopher M Lambrecht	<b>Art Unit</b> 2611	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 October 2003 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/02/03</u> . | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Claim Objections*

1. **Claim 1** is objected to because of the following informalities: line 23 of claim 1 appears twice. One instance of line 23 should be deleted. Appropriate correction is required.
2. **Claim 6** is objected to because of the following informalities: In line 6 of claim 6, "audio" (first occurrence) should be replaced with --video--.

### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. **Claim 5** is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Line 2 of claim 5 appears to have been omitted, rendering some limitations of the claim incomprehensible. Consequently the claim is indefinite.

For purpose of advancing prosecution on the merits, the Examiner will interpret claim 5 to read as follows:

The process of producing and transmitting of video events according to claim 1, wherein said originating institutions comprise academic institutions with athletic programs, and said categories include sports events at said academic institutions.

### *Claim Rejections - 35 USC § 103*

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

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such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 1 and 5-8** are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. US 2003/0097661 A1 to Li et al. (hereinafter "Li") in view of Broadcast.com, 2 December 1998, *Sports Channel* page (p. 1), *College Sports Channel* page (p. 2), and *Arkansas College Baseball Schedule* page (p. 3) (hereinafter Broadcast.com, pp. 1-3).

Regarding **claim 1**, Li discloses a process for video production of events (i.e., video programs) of interest to groups of interested persons (i.e., users requesting video programs) at each of a plurality of originating institutions (where a video program is inherently produced at an originating institution, e.g., studio, performance venue, etc.), and of recording or storing (at storage unit 34, fig. 1), and processing and transmitting (via transmission unit 12, fig. 1) on demand the video recorded events to subscribers among said groups of interested persons (i.e., providing video on demand service, ¶0028), the events being produced by respective ones of said originating institutions, and each event being categorized in an identifiable category of events (¶¶0070, 0071) comprising:

obtaining a video production of each of said events, the video productions each including at least one video channel and one audio channel (where television programming, ¶0011, comprises at least one video channel and one audio channel);

transmitting said video production to a central digital clearing house (data creation and transmission unit 12, fig. 1, via various feeds, 28, 30 and 32, fig. 1, ¶0028) having a computer processor (media content creators 202, fig. 2, shown as 36 in fig. 1) for digitally processing each said video production to prepare the video channel and audio channel thereof for digital storage and retransmission (¶¶0032, 0033), a digital memory (storage unit 306, fig. 3, shown as 34 in fig. 1) arrangement with capacity sufficient for storing a multiplicity of said video productions (¶0044); and a web transmitter (media streaming engine 204, fig. 2, 38 in fig. 1) for transmitting the stored video productions of said events to said subscribers on demand (¶0033);

converting said video and audio channels of said video productions to a digital form, and storing same at storage locations on the associated digital arrangement (§§0046, 0047);

creating a subscriber accessible index of the video productions stored in the memory arrangement at said clearing house (§§0047, 0056), the index having categories including type of event (§0071);

providing to a plurality of subscribers digital access, via a global computer network, to the video recordings of the events stored on memory arrangement at said clearing house (§0029), including providing each said subscriber access via a global computer network to said index, permitting the subscriber to select one or more categories of said index, and permitting the subscriber to select a desired video production within the selected one or more categories (§0056, §0071); and

transmitting to said subscriber the selected video production over said global computer network (§0029).

Li fails to disclose the index having categories including originating institution and date of event.

In an analogous art, Broadcast.com discloses a system for providing media productions on demand comprising an index having categories including originating institution (“Choose your school”, p. 2) and date of event (see p. 3), for the purpose of enabling the user to select a desired game (see p. 3).

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Li to include categories such as originating institution and date of event, as taught by Broadcast.com, for the purpose of enabling the user to select a desired game.

As for **claim 5**, Li and Broadcast.com together disclose the process of producing and transmitting of video events according to claim 1, wherein said originating institutions comprise academic institutions with athletic programs, and said categories include sports events at said academic institutions (see Broadcast.com, pp. 1 and 2).

As for **claim 6**, Li and Broadcast.com together disclose the process of producing and transmitting of video events according to claim 1. In addition, Li discloses said step of transmitting includes supplying, via a video channel, the video and audio channels in real time to said clearing house (§0028); and said clearing house providing to subscribers with access authorization the video and audio channels in real time to said clearing house (§0028), and said clearing house providing to subscribers with access authorization said video and audio channels in real time as a live web video presentation (where video provided over in real time, §0028, over the web, §0029, constitutes a live web video presentation), and also recording said event for digital storage and retransmission in said digital memory arrangement (§0028).

Regarding **claim 7**, Li and Broadcast.com together disclose the process of producing and transmitting of video events according to claim 1. However, they fail to disclose the step of obtaining a video production of said events includes obtaining images from two cameras, feeding both said images to a control module having two video screens, and employing a control means to select on or the other of said images.

Official notice is taken of the fact that it is well known in the art for obtaining a video production of events to include obtaining images from two cameras, feeding both said images to a control module having two video screens, and employing a control means to select on or the other of said images, such that multiple camera views are presented to the viewer, resulting in a production that is more interesting to the viewer.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Li and Broadcast.com to include obtaining images from two cameras, feeding both said images to a control module having two video screens, and employing a control means to select on or the other of said images, for the purpose of creating a more interesting production.

Regarding **claim 8**, Li and Broadcast.com together disclose the process of producing and transmitting of video events according to claim 1. However, they fail to disclose prior to transmission, verifying access authorization for any said subscriber that is seeking access to said stored video recordings for viewing same.

Official notice is taken of the fact that it is well known in art to verify access privileges of subscribers in an Internet access environment prior to transmission of data thereto, for the purpose of preventing unauthorized access to said data resulting in potential revenue loss.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Li and Broadcast.com to include prior to transmission, verifying access authorization for any said subscriber that is seeking access to said stored video recordings for viewing same, for the purpose of preventing unauthorized access to said data resulting in potential revenue loss.

7. **Claims 2-4** are rejected under 35 U.S.C. 103(a) as being unpatentable over Li in view of Broadcast.com as applied to claim 1 above, and further in view of U.S. Patent Application Publication No. US 2001/0034734 A1 to Whitley et al. (hereinafter "Whitley").

Regarding **claim 2**, Li and Broadcast.com together disclose the process of producing and transmitting of video events according to claim 1. However, they fail to disclose obtaining a video production includes capturing the event at said originating institution using at least one video camera and at least one microphone, and recording the captured event on a portable physical video recording medium, and said step of transmitting includes physically transporting said portable recording medium via a public express service to said clearing house.

In an analogous art, Whitley discloses disclose obtaining a video production includes capturing the event at said originating institution using at least one video camera and at least one microphone

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(where the clip is an audio-video clip, ¶0057), and recording the captured event on a portable physical video recording medium, and said step of transmitting includes physically transporting said portable recording medium via a public express service to said clearing house (¶0058), for the purpose of transferring said events from a playing field to subscribers (0057).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Li and Broadcast.com to include obtaining a video production includes capturing the event at said originating institution using at least one video camera and at least one microphone, and recording the captured event on a portable physical video recording medium, and said step of transmitting includes physically transporting said portable recording medium via a public express service to said clearing house, as taught by Whitley, for the purpose of transferring said events from a playing field to subscribers.

As for **claim 3**, Li, Broadcast.com, and Whitley together disclose the process of producing and transmitting video events according to claim 2 wherein said portable physical video record medium includes a video tape (Whitley, ¶0058).

As for **claim 4**, Li, Broadcast.com, and Whitley together disclose the process of producing and transmitting of video events according to claim 2. However, they fail to disclose said portable physical video record medium includes a digital optical disk.

Official notice is taken of the fact that it is well known in the art to store digital media on a digital optical disk, as these devices are generally smaller, lighter, or less expensive than alternative storage devices (such as magnetic tape or semiconductor memory devices).

Consequently, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Li, Broadcast.com, and Whitley to include said portable



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physical video record medium includes a digital optical disk, for the purpose of reducing size, weight, or cost of the record medium.

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### ***Conclusion***

8. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

### **Certificate of Mailing**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher M Lambrecht whose telephone number is (703) 305-8710. The examiner can normally be reached from 9:30 AM - 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached at (703) 305-8710. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christopher M Lambrecht  
Examiner  
Art Unit 2611

CML



VIVEK SRIVASTAVA  
PRIMARY EXAMINER